

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

THOMAS M. MORAN,
Plaintiff

CIVIL ACTION

NO. 1:19-CV-03079-AT

VS.

MTA METRO-NORTH RAILROAD COMPANY,
PO NICHOLAS STRYPE (individual capacity),
PO DOUGLAS COHEN (individual capacity), PO LUIGI
SEIDITA (individual capacity), PO JASON NANDOO
(individual capacity), PO JOSEPH TERACCIANO
(individual capacity), and PO RICHARD DOE (Full names
and number of whom are unknown at present, and other
unidentified members of the MTA Police Department in
their individual capacities),

Defendants

July 22, 2022

X

PARTIES' PROPOSED VERDICT FORMS

The parties were unable to agree on a joint verdict form. The plaintiff's proposed verdict form is from pp. 1-8. The defendant's proposed verdict form is on pp. 9-11.

PLAINTIFF'S PROPOSED VERDICT FORM (pp.1 - 8)

FEDERAL EMPLOYERS' LIABILITY ACT

Interrogatory No. 1

Do you find that defendant Metro North, or one of its employees or agents was negligent?

Yes _____ No _____

[If your answer to Interrogatory No. 1 is "no," you have completed your deliberations with respect to the FELA claim and should proceed to the _____. If your answer to Interrogatory No. 1 is "yes," proceed to Interrogatory No. 2.]

Interrogatory No. 2

If your answer to Interrogatory No. 1 is "yes", did that negligence play any part, no matter how slight, in bringing about injury to the plaintiff?

Yes _____ No _____

[If your answer to Interrogatory No. 2 is "no," you have completed your deliberations with respect to the FELA claim and should proceed to the _____. If your answer to Interrogatory No. 2 is "yes," proceed to Interrogatory No. 3.]

Interrogatory No. 3

If your answer to Interrogatory No. 2 is "yes", do you find that the plaintiff was contributorily negligent?

Yes _____ No _____

[If your answer to Interrogatory No. 3 is "no," proceed to Interrogatory No. 5 and do not respond to Interrogatory No. 4. If your answer to Interrogatory No. 3 is "yes," proceed to Interrogatory No. 4.]

Interrogatory No. 4

If your answer to Interrogatory No. 3 is "yes," to what extent, expressed in a percentage, did the defendant and plaintiff's negligence contribute to his injuries?

Defendant _____%

Plaintiff _____%

Total must equal 100%

[Proceed to Interrogatory No. 5.]

Interrogatory No. 5

What amount do you find, without reduction for any contributory negligence, will fairly and adequately compensate the plaintiff for:

- A. Past Lost Wages and Benefits: \$ _____
- B. Future Lost Earnings Capacity and Benefits: \$ _____
- C. Past Pain, Suffering, Mental Anguish
and Loss Of Enjoyment of Life's Activities \$ _____
- D. Future Pain, Suffering, Mental Anguish
and Loss of Enjoyment of Life's Activities \$ _____

GENERAL VERDICT (Total of A+B+C+D) \$ _____

[If your answer to Interrogatory number 3 is "yes," proceed to Interrogatory No. 6. If your answer to Interrogatory No. 3 is "no," proceed to _____.]

Interrogatory No. 6

If your answer to Interrogatory No. 3 is "yes," reduce the total combined amount of damages in Interrogatory No. 5 by the percentage of plaintiff's contributory negligence that you found in Interrogatory No. 4 and enter that reduced amount in the space below:

GENERAL VERDICT: \$ _____

FALSE ARREST:

1a. Do you find defendant Cohen liable for violating plaintiff's constitutional right to be free from unlawful arrest?

Yes No

1b Do you find defendant Nandoo liable for violating plaintiff's constitutional right to be free from unlawful arrest?

Yes No

1c. Do you find defendant Strype liable for violating plaintiff's constitutional right to be free from unlawful arrest?

Yes No

1d. Do you find defendant Teracciano liable for violating plaintiff's constitutional right to be free from unlawful arrest?

Yes No

2. Answer this question only if you answered "yes" to question 1a and/or 1b and/or 1c and/or 1/d: What amount do you award the plaintiff as compensatory damages for the violation of plaintiff's right under the U.S. Constitution to be free from false arrest?

\$ _____

3a. If you determined defendant Cohen violated plaintiff's constitutional right to be free from unlawful arrest, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

3b. If you determined defendant Nandoo violated plaintiff's constitutional right to be free from unlawful arrest, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

3c. If you determined defendant Strype violated plaintiff's constitutional right to be free from unlawful arrest, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$_____

3d. If you determined defendant Terraciano violated plaintiff's constitutional right to be free from unlawful arrest, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$_____

MALICIOUS PROSECUTION

1. Do you find defendant Strype liable for violating plaintiff's constitutional right to be free from malicious prosecution?

Yes No

2. Answer this question only if you answered "yes" to question 1. What amount do you award the plaintiff as compensatory damages for the violation of plaintiff's right under the U.S. Constitution to be free from malicious prosecution?

\$_____

3. If you determined defendant Strype violated plaintiff's constitutional right to be free from malicious prosecution, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$_____

EXCESSIVE FORCE

1a. Do you find defendant Cohen liable for violating plaintiff's constitutional right to be free from excessive force?

Yes No

1b Do you find defendant Nandoo liable for violating plaintiff's constitutional right to be free from excessive force?

Yes No

1c. Do you find defendant Strye liable for violating plaintiff's constitutional right to be free from excessive force?

Yes No

1d. Do you find defendant Teracciano liable for violating plaintiff's constitutional right to be free from excessive force?

Yes No

2. Answer this question only if you answered "yes" to question 1a and/or 1b and/or 1c and/or 1/d: What amount do you award the plaintiff as compensatory damages for the violation of plaintiff's right under the U.S. Constitution to be free from excessive force?

\$ _____

3a. If you determined defendant Cohen violated plaintiff's constitutional right to be free from excessive force, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

3b. If you determined defendant Nandoo violated plaintiff's constitutional right to be free from excessive force, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

3c. If you determined defendant Strype violated plaintiff's constitutional right to be free from excessive force, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

3d. If you determined defendant Terraciano violated plaintiff's constitutional right to be free from excessive force, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

FREE SPEECH/EXPRESSION

1a. Do you find defendant Cohen liable for retaliating against the plaintiff for exercising his First Amendment constitutional right to free speech/expression?

Yes No

1b Do you find defendant Seidita liable for retaliating against the plaintiff for exercising his First Amendment constitutional right to free speech/expression?

Yes No

1c. Do you find defendant Strype liable for retaliating against the plaintiff for exercising his First Amendment constitutional right to free speech/expression?

Yes No

1d. Do you find defendant Teracciano liable for retaliating against the plaintiff for exercising his First Amendment constitutional right to free speech/expression?

Yes No

2. Answer this question only if you answered "yes" to question 1a and/or 1b and/or 1c and/or 1d: What amount do you award the plaintiff as compensatory damages for retaliating against the plaintiff for exercising his First Amendment constitutional right to free speech and expression?

\$ _____

3a. If you determined defendant Cohen violated plaintiff's constitutional right to free speech/expression, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

3b. If you determined defendant Nandoo violated plaintiff's constitutional right to free speech/expression, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

3c. If you determined defendant Strype violated plaintiff's constitutional right to free speech/expression, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

3d. If you determined defendant Terraciano violated plaintiff's constitutional right to free speech/expression, do you award punitive damages to the plaintiff for violation of that federal constitutional right?

Yes No

If yes: amount \$ _____

DEFENDANTS' PROPOSED SPECIAL VERDICT FORM (pp. 9-12)

Probable Cause to Arrest

1A. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Nicholas Strype arrested plaintiff without having probable cause to believe plaintiff had committed or was committing a criminal offense?

ANSWER_____ (Yes or No).

1B. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Douglas Cohen arrested plaintiff without having probable cause to believe plaintiff had committed or was committing a criminal offense?

ANSWER_____ (Yes or No).

1C. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Jason Nandoo arrested plaintiff without having probable cause to believe plaintiff had committed or was committing a criminal offense?

ANSWER_____ (Yes or No).

1D. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Joseph Terracciano arrested plaintiff without having probable cause to believe plaintiff had committed or was committing a criminal offense?

ANSWER_____ (Yes or No).

Excessive Force

2A. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Nicholas Strype used excessive force in effectuating the arrest of plaintiff?

ANSWER_____ (Yes or No).

2B. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Douglas Cohen used excessive force in effectuating the arrest of plaintiff?

ANSWER_____ (Yes or No).

2C. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Jason Nandoo used excessive force in effectuating the arrest of plaintiff?

ANSWER_____ (Yes or No).

2D. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Joseph Terracciano used excessive force in effectuating the arrest of plaintiff?

ANSWER_____ (Yes or No).

Answer Question 3 only if you answered Yes to one of the above questions.

Failure to Intervene

3. Do you find that plaintiff established by a preponderance of the evidence that Police Officer Luigi Seidita had an opportunity to intervene to prevent the arrest of plaintiff and/or the use of excessive force?

ANSWER_____ (Yes or No).

First Amendment

4A. If you answered Yes to Question 1A and/or 2A, do you find that plaintiff established by a preponderance of the evidence that Police Officer Nicholas Strype arrested plaintiff because of plaintiff's exercise of First Amendment speech?

ANSWER_____ (Yes or No).

4B. If you answered Yes to Question 1B and/or 2B, do you find that plaintiff established by a preponderance of the evidence that Police Officer Douglas Cohen arrested plaintiff because of plaintiff's exercise of First Amendment speech?

ANSWER_____ (Yes or No).

4C. If you answered Yes to Question 1C and/or 2C, do you find that plaintiff established by a preponderance of the evidence that Police Officer Jason Nandoo arrested plaintiff because of plaintiff's exercise of First Amendment speech?

ANSWER_____ (Yes or No).

4D. If you answered Yes to Question 1D and/or 2D, do you find that plaintiff established by a preponderance of the evidence that Police Officer Joseph Terracciano arrested plaintiff because of plaintiff's exercise of First Amendment speech?

ANSWER_____ (Yes or No).

Metro-North FELA Claim

5. Do you find that plaintiff established by a preponderance of the evidence that the MTA police officers were the agents of Metro-North at the time of plaintiff's arrest?

ANSWER_____ (Yes or No).

6. Do you find that plaintiff established by a preponderance of the evidence that Metro-North was negligent and that Metro-North's negligence caused or contributed to plaintiff's injuries?

ANSWER_____ (Yes or No).

7. Do you find that Metro-North established by a preponderance of the evidence that plaintiff was negligent and that plaintiff's negligence caused or contributed to his own injuries?

ANSWER_____ (Yes or No).

Answer Question 8 only if you answered Yes@ to Question 7.

8. What percentage of plaintiff's damages do you find to have been caused by the negligence of plaintiff and Metro-North?

Plaintiff _____%

Metro-North _____%

DAMAGES

Answer the following questions only if you answered AYes@ to one or more of the above questions.

9. State the amount of money you award, if any, for Plaintiff's physical pain and suffering \$ _____

10. State the amount of money you award, if any, for Plaintiff's emotional pain and suffering \$ _____

11. State the amount of money you award, if any, for Plaintiff's past lost wages and fringe benefits from August 4, 2017 to the present date \$ _____

12. State the amount of money you award, if any, for Plaintiff's future lost wages and fringe benefits from this date forward \$ _____

Punitive Damages

13. If you answered Yes to Question 1A, 2A or 4A,
state the amount of punitive damages, if any, you
award against Police Office Nicholas Strype \$ _____
14. If you answered Yes to Question 1B, 2B or 4B,
State the amount of punitive damages , if any, you
Award against Police Officer Douglas Cohen \$ _____
15. If you answered Yes to Question 1C, 2C or 4C,
State the amount of punitive damages, if any, you
Award against Police Officer Jason Nandoo \$ _____
16. If you answered Yes to Question 1D, 2D or 4D,
State the amount of punitive damages, if any, you
Award against Police Officer Joseph Terracciano \$ _____
17. If you answered Yes to Question 3, state the
Amount of of punitive damages, if any, you award
Against Police Officer Luigi Seidita \$ _____

Respectfully submitted,
FOR THE PLAINTIFF

By /s/ George J. Cahill, Jr.
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METRO-NORTH RAILROAD COMPANY,
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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2022, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ George J. Cahill, Jr.
George J. Cahill, Jr.